



# SENATE JOINT RESOLUTION No. 11

## DIGEST OF INTRODUCED RESOLUTION

**Citations Affected:** Article 7 of the Constitution of the State of Indiana.

**Synopsis:** Selection of judges. Provides for the selection and oversight of judges and justices in Indiana by a state judiciary board. This proposed amendment has not been previously agreed to by a general assembly.

**Effective:** This proposed amendment must be agreed to by two consecutive general assemblies and ratified by a majority of the state's voters voting on the question to be effective.

**Howard**

January 15, 2002, read first time and referred to Committee on Rules and Legislative Procedure.

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PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE JOINT RESOLUTION No. 11

A JOINT RESOLUTION proposing an amendment to Article 7 of the Constitution of the State of Indiana concerning courts and court officers.

*Be it resolved by the General Assembly of the State of Indiana:*

- 1 SECTION 1. The following amendment to the Constitution of the
- 2 State of Indiana is proposed and agreed to by this, the One Hundred
- 3 Twelfth General Assembly of the State of Indiana, and is referred to the
- 4 next General Assembly for reconsideration and agreement.
- 5 SECTION 2. ARTICLE 7, SECTION 1 OF THE CONSTITUTION
- 6 OF THE STATE OF INDIANA IS AMENDED TO READ AS
- 7 FOLLOWS: Section 1. ~~Judicial Power.~~ **Subject to the rules of the**
- 8 **State Judiciary Board**, the judicial power of the State shall be vested
- 9 in one Supreme Court, one Court of Appeals, ~~Circuit Courts~~, and such
- 10 other courts as the General Assembly may establish.
- 11 SECTION 3. ARTICLE 7, SECTION 3 OF THE CONSTITUTION
- 12 OF THE STATE OF INDIANA IS AMENDED TO READ AS



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FOLLOWS: Section 3. ~~Chief Justice.~~ (a) The Chief Justice of the State shall be selected by the ~~judicial nominating commission~~ **State Judiciary Board** from the members of the Supreme Court and he shall retain that office for a period of ~~five~~ **two** years, subject to reappointment in the same manner, except that a member of the Court may resign the office of Chief Justice without resigning from the Court. During a vacancy in the office of Chief Justice caused by absence, illness, incapacity or resignation all powers and duties of that office shall devolve upon the member of the Supreme Court who is senior in length of service and if equal in length of service the determination shall be by lot until such time as the cause of the vacancy is terminated or the vacancy is filled.

(b) The Chief Justice of the State shall appoint such persons as the General Assembly by law may provide for the administration of his office. The Chief Justice shall have prepared and submit to the General Assembly regular reports on the condition of the courts and such other reports as may be requested.

SECTION 4. ARTICLE 7, SECTION 4 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 4. (a) The Supreme Court shall have no original jurisdiction except in admission to the practice of law; discipline or disbarment of those admitted; the unauthorized practice of law; ~~discipline, removal and retirement of Justices and Judges; supervision of the exercise of jurisdiction by the other courts of the State; and~~ issuance of writs necessary or appropriate in aid of its jurisdiction. **However, the Supreme Court shall not require that a Judge be an attorney or require that the exercise of judicial power by a nonattorney constitutes the unauthorized practice of law.** The Supreme Court shall exercise appellate jurisdiction under such terms and conditions as specified by rules except that appeals from a judgment imposing a sentence of death shall be taken directly to the Supreme Court. The Supreme Court shall have, in all appeals of criminal cases, the power to review all questions of law and to review and revise the sentence imposed.

(b) **The State Judiciary Board has the ultimate authority to:**

(1) **discipline, remove, and retire Justices of the Supreme Court, Judges of the Court of Appeals, and other Judges in Indiana; and**

(2) **supervise the exercise of jurisdiction by the Courts in Indiana.**

**Subject to its review, the Board may delegate rulemaking authority to the Supreme Court to make rules for the uniform and fair**



1 administration of justice throughout Indiana and to other Courts  
2 within the sphere of their jurisdiction.

3 SECTION 5. ARTICLE 7, SECTION 5 OF THE CONSTITUTION  
4 OF THE STATE OF INDIANA IS AMENDED TO READ AS  
5 FOLLOWS: Section 5. ~~Court of Appeals~~. The Court of Appeals shall  
6 consist of ~~as many~~ **five** geographic districts and sit at such locations as  
7 the General Assembly shall determine to be necessary. Each  
8 geographic district of the Court shall consist of ~~three~~ **the number of**  
9 **Judges provided by the General Assembly. Subject to the oversight**  
10 **of the State Judiciary Board**, the Judges of each geographic district  
11 shall appoint such personnel as the General Assembly may provide by  
12 law.

13 SECTION 6. ARTICLE 7, SECTION 7 OF THE CONSTITUTION  
14 OF THE STATE OF INDIANA IS AMENDED TO READ AS  
15 FOLLOWS: Section 7. ~~Judicial Circuits~~. (a) **The State Judiciary**  
16 **Board shall divide the Trial Courts in the State shall, from time to**  
17 **time, be divided into five Judicial Circuits and a Judge for appoint and**  
18 **assign the Judges provided for by the General Assembly within**  
19 **each Circuit shall be elected by the voters thereof. He shall as needed**  
20 **to administer justice.**

21 (b) **To be eligible for appointment to a Trial Court in a Circuit,**  
22 **a Judge must:**

- 23 (1) **meet the qualifications established by the State Judiciary**  
24 **Board;**
- 25 (2) **have successfully completed a four year program of study**  
26 **resulting in a bachelor's degree from an accredited institution**  
27 **of higher learning;**
- 28 (3) **successfully pass a written competitive competency**  
29 **examination administered by the Board; and**
- 30 (4) **be recommended by a Search Committee established by**  
31 **the Board.**

32 **The Board shall not require that the applicant be licensed to**  
33 **practice law in Indiana. A Judge must** reside within the Circuit **and**  
34 **shall have been duly admitted to practice law by the Supreme Court of**  
35 **Indiana; he shall hold his office for the term of six years: if he so long**  
36 **behaves well: to which the Judge is appointed.**

37 (c) **The State Judiciary Board shall establish a Search**  
38 **Committee to identify candidates to fill a vacancy in a Trial Court**  
39 **in a Circuit. Each Search Committee must consist of six members.**  
40 **The Board shall appoint one attorney who is licensed to practice**  
41 **law in Indiana and five other members who are representative of**  
42 **the ethnic diversity in Indiana. Unless prohibited by the**



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1 Constitution of the United States, each Search Committee must  
 2 include one person who is a Native American, one person who is an  
 3 Asian American, one person who is a Hispanic American, one  
 4 person who is an African American, and one person who is a  
 5 Caucasian American. Each member appointed to a Search  
 6 Committee must be a citizen of the United States and a resident of  
 7 Indiana.

8 SECTION 7. ARTICLE 7, SECTION 9 OF THE CONSTITUTION  
 9 OF THE STATE OF INDIANA IS AMENDED TO READ AS  
 10 FOLLOWS: Section 9. ~~Judicial Nominating Commission:~~ (a) There  
 11 shall be one ~~judicial nominating commission~~ for the Supreme Court  
 12 and Court of Appeals. ~~This commission shall, in addition, be the~~  
 13 ~~commission on judicial qualifications for the Supreme Court and Court~~  
 14 ~~of Appeals.~~ **State Judiciary Board.**

15 (b) ~~The judicial nominating commission~~ **State Judiciary Board**  
 16 shall consist of seven members, a majority of whom shall form a  
 17 quorum. ~~one of whom shall be the Chief Justice of the State or a Justice~~  
 18 ~~of the Supreme Court whom he may designate, who shall act as~~  
 19 ~~chairman. Those admitted to the practice of law shall elect three of~~  
 20 ~~their number to serve as members of said commission. All elections~~  
 21 ~~shall be in such manner as the General Assembly may provide. The~~  
 22 ~~Governor shall appoint to the commission three citizens, not admitted~~  
 23 ~~to the practice of law: the members of the Board.~~ The terms of office  
 24 and compensation for members of a ~~judicial nominating commission~~  
 25 **the Board** shall be fixed by the General Assembly. **The term of a**  
 26 **member of the Board is four years.** No member of a ~~judicial~~  
 27 ~~nominating commission other than the Chief Justice or his designee~~ **the**  
 28 **Board** shall hold any other salaried public office. No member shall  
 29 hold an office in a political party or organization. **Each member**  
 30 **appointed to the Board must be a citizen of the United States and**  
 31 **a resident of Indiana. Unless prohibited by the Constitution of the**  
 32 **United States, the Board must include one person who is a Native**  
 33 **American, one person who is an Asian American, one person who**  
 34 **is a Hispanic American, one person who is an African American,**  
 35 **and one person who is a Caucasian American. Not more than four**  
 36 **of the members may be members of the same political party. One**  
 37 **member of the Board must be an attorney licensed to practice law**  
 38 **in Indiana.** No member of the ~~judicial nominating commission~~ shall  
 39 be eligible for appointment to a judicial office so long as he is a  
 40 member of the ~~commission~~ **Board** and for a period of three years  
 41 thereafter. **A member of the Board must serve as a full-time**  
 42 **employee of the State of Indiana. A member of the Board may be**

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removed by the Governor only for good cause.

(c) The Governor shall appoint one of the members as Director of the State Judiciary Board. The Director shall not be licensed to practice law in Indiana. The Director of the Board shall be removed on a majority vote of the membership of the Board only for good cause.

(d) An examination, a determination, or other action of the State Judiciary Board must not discriminate against a person based on sex, disability, age, race, color, national origin, sexual preference, or religious preference.

(e) The State Judiciary Board shall make available for public inspection and copying its rules and the criteria the Board uses to employ staff, select Judges and Justices, and evaluate and discipline Judges and Justices.

(f) The State Judiciary Board may employ and set the compensation of the personnel that the Board determines is necessary to carry out its responsibilities. Staff must be selected from applicants who successfully pass a written competitive competency examination. Personnel employed by the Board may be removed by the Board only for good cause.

SECTION 8. ARTICLE 7, SECTION 10 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 10. ~~Selection of Justices of the Supreme Court and Judges of the Court of Appeals:~~ (a) A vacancy in a judicial office in the Supreme Court or Court of Appeals shall be filled by the Governor, without regard to political affiliation, from a list of three nominees presented to him by the judicial nominating commission. If the Governor shall fail to make an appointment from the list within sixty days from the day it is presented to him, the appointment shall be made by the Chief Justice or the acting Chief Justice from the same list. **State Judiciary Board.**

(b) To be eligible for nomination as a Justice of the Supreme Court or Judge of the Court of Appeals, a person must: ~~be domiciled within the geographic district, a citizen of the United States, admitted to the practice of law in the courts of the State for a period of not less than ten~~ (10) years or must

(1) meet the qualifications established by the State Judiciary Board;

(2) have successfully completed a four year program of study resulting in a bachelor's degree from an accredited institution of higher learning;

(3) successfully pass a written competitive competency

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examination administered by the State Judiciary Board;  
 (4) be recommended by a Search Committee established by  
 the Board; and  
 (5) have served as a Trial Court Judge of in a Circuit superior or  
 criminal court of in the State of Indiana for a period of not less  
 than five (5) years.

The Board shall not require that the applicant be licensed to  
 practice law in Indiana.

(c) The State Judiciary Board shall establish a Search  
 Committee to identify candidates to fill a vacancy on the Court of  
 Appeals or the Supreme Court. Each Search Committee must  
 consist of six members. The Board shall appoint one attorney who  
 is licensed to practice law in Indiana and five other members who  
 are representative of the ethnic diversity in Indiana. Unless  
 prohibited by the Constitution of the United States, each Search  
 Committee must include one person who is a Native American, one  
 person who is an Asian American, one person who is a Hispanic  
 American, one person who is an African American, and one person  
 who is a Caucasian American.

SECTION 9. ARTICLE 7, SECTION 11 OF THE CONSTITUTION  
 OF THE STATE OF INDIANA IS AMENDED TO READ AS  
 FOLLOWS: Section 11. Tenure of Justices of Supreme Court and  
 Judges of the Court of Appeals: A Justice of the Supreme Court or  
 Judge of the Court of Appeals shall serve until the next general election  
 following the expiration of two years from the date of appointment, and  
 subject to approval or rejection by the electorate, shall continue to  
 serve for terms of ten years, so long as he retains his office. In the case  
 of a Justice of the Supreme Court, the electorate of the entire state shall  
 vote on the question of approval or rejection. In the case of Judges of  
 the Court of Appeals the electorate of the geographic district in which  
 he serves shall vote on the question of approval or rejection.

Every such Justice and Judge shall retire at the age specified by  
 statute in effect at the commencement of his current term.

(a) Every such Justice or Judge is disqualified from acting as a  
 judicial officer, without loss of salary, while there is pending (1) an  
 indictment or information charging him in any court in the United  
 States with a crime punishable as a felony under the laws of Indiana or  
 the United States, or (2) a recommendation to the Supreme Court by  
 the commission on judicial qualifications for matter before the State  
 Judiciary Board concerning his removal or retirement.

On recommendation of the commission on judicial qualifications or  
 on its own motion, the Supreme Court (b) The State Judiciary Board

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may suspend such Justice or Judge from office without salary when in any court in the United States he pleads guilty or no contest or is found guilty of a crime punishable as a felony under the laws of Indiana or the United States, or of any other crime that involves moral turpitude under that law. If his conviction is reversed, suspension terminates and he shall be paid his salary for the period of suspension. If he is suspended and his conviction becomes final the ~~Supreme Court~~ **State Judiciary Board** shall remove him from office.

~~On recommendation of the commission on judicial qualifications the Supreme Court may~~ (c) **A Justice or Judge who:**

(1) ~~retire such Justice or Judge for~~ has a disability that seriously interferes with the performance of his duties and is or is likely to become permanent; and

(2) ~~censure or remove such Justice or Judge; for~~ engaged in an action occurring not more than six years prior to the commencement of his current term ~~when such action that~~ constitutes willful misconduct in office, willful and persistent failure to perform his duties, habitual intemperance, or conduct prejudicial to the administration of Justice that brings the judicial office into disrepute;

(3) **violates a rule or order adopted by the State Judiciary Board;**

(4) **fails to successfully pass a written continuing competency examination annually administered by the Board;**

(5) **fails to successfully pass an annual evaluation by the Board of the Judge's performance in the administration of justice; or**

(6) **discriminates against a person based on sex, disability, age, race, color, national origin, or religious preference;**

**shall, on information in the name of the State, be removed from office by the State Judiciary Board or otherwise disciplined in a manner appropriate to the offense.**

(d) A Justice or Judge ~~so~~ retired by the ~~Supreme Court~~ **State Judiciary Board** shall be considered to have retired voluntarily. A Justice or Judge so removed by the ~~Supreme Court Board~~ is ineligible for judicial office and, pending further order of the ~~Court; Board~~, **if the Justice or Judge is an attorney**, he is suspended from practicing law in this State.

~~Upon receipt by the Supreme Court of any such recommendation;~~ (e) The ~~Court~~ **State Judiciary Board** shall hold a hearing, at which such Justice or Judge is entitled to be present, and make such determinations as shall be required. ~~No Justice shall participate in the~~



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determination of such hearing when it concerns himself.

(f) The ~~Supreme Court~~ **State Judiciary Board** shall make rules implementing this section and provide for convening of hearings. Hearings and proceedings shall be public upon request of the Justice or Judge whom it concerns.

(g) **The State Judiciary Board shall provide for the investigation of complaints against a Justice or Judge. The procedure must allow any person to file a written complaint and require the Justice or Judge who is the subject of the complaint to file a written response to the complaint with the Board. Complaints and responses under this subsection shall be treated as public records.**

(h) No such Justice or Judge shall, during his term of office, engage in the practice of law, run for elective office other than a judicial office, directly or indirectly make any contribution to, or hold any office in, a political party or organization, ~~or~~ take part in any political campaign, **or violate any rule adopted by the State Judiciary Board.**

(i) **Hearings and proceedings under this section shall be public.**

SECTION 10. ARTICLE 7, SECTION 12 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 12. ~~Substitution of Judges.~~ The General Assembly **or the State Judiciary Board** may provide, by law, that the Judge of one Circuit may hold the Courts of another Circuit, in cases of necessity or convenience; and in case of temporary inability of any Judge, from sickness or other cause, to hold the Courts in his Circuit, provision may be made, by law, for holding such courts.

SECTION 11. ARTICLE 7, SECTION 13 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 13. ~~Removal of Circuit Court Judges and Prosecuting Attorneys.~~ (a) Any Judge of the Circuit Court or Prosecuting Attorney, who shall have been convicted of corruption or other high crime, may, on information in the name of the State, be removed from office by the Supreme Court, or in such other manner as may be prescribed by law.

(b) **A Trial Court Judge who:**

- (1) **has been convicted of corruption or other high crime;**
- (2) **has a disability that seriously interferes with the performance of the Judge's duties and is or is likely to become permanent;**
- (3) **violates a rule or order adopted by the State Judiciary Board;**
- (4) **fails to successfully pass a written continuing competency examination annually administered by the Board;**

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(5) fails to successfully pass an annual evaluation by the Board of the Judge's performance in the administration of justice; or

(6) discriminates against a person based on sex, disability, age, race, color, national origin, or religious preference;

shall, on information in the name of the State, be removed from office by the State Judiciary Board or otherwise disciplined in a manner appropriate to the offense.

(c) The State Judiciary Board shall hold a hearing on an information filed under subsection (b) at which the Judge is entitled to be present. The Board shall make such determinations as shall be required.

(d) The State Judiciary Board shall provide for the investigation of complaints against a Judge of a Trial Court. The procedure must allow any person to file a written complaint and require the Trial Court Judge who is the subject of the complaint to file a written response to the complaint with the Board. Complaints and responses under this subsection shall be treated as public records.

(e) The State Judiciary Board shall make rules implementing this section and provide for convening of hearings. Hearings and proceedings under this section shall be public.

SECTION 12. ARTICLE 7, SECTION 15 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 15. ~~No Limitation on Term of Office.~~ The provisions of Article 15, Section 2, prohibiting terms of office longer than four years, shall not apply to Justices and Judges: (a) A Justice of the Supreme Court shall not serve as a Justice of the Supreme Court for more than eight years.

(b) A Judge of the Court of Appeals shall not serve as a Judge of the Court of Appeals for more than eight years.

(c) A Judge shall not serve as a Judge of a Trial Court in Indiana for more than eight years.

SECTION 13. ARTICLE 7, SECTION 22 IS ADDED TO THE CONSTITUTION OF THE STATE OF INDIANA TO READ AS FOLLOWS: Section 22. Each Judge and Justice in Indiana is a state employee. The General Assembly shall appropriate sufficient funds for the administration of justice in Indiana and the operation of the State Judiciary Board and its staff.

SECTION 14. ARTICLE 7, SECTION 23 IS ADDED TO THE CONSTITUTION OF THE STATE OF INDIANA TO READ AS FOLLOWS: Section 23. The State of Indiana abrogates the immunity of a Judge or Justice in Indiana from all civil and

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1 criminal actions that may arise from the duties of the Judge or  
2 Justice. The State of Indiana shall not represent a Judge or Justice  
3 in any action brought against the Judge or Justice.

4 SECTION 15. THE CONSTITUTION OF THE STATE OF  
5 INDIANA IS AMENDED BY ADDING THE FOLLOWING  
6 SCHEDULE:

7 **SCHEDULE**

8 Notwithstanding ARTICLE 7 of the Constitution of the State of  
9 Indiana, as amended by this Amendment, the term of each Judge  
10 and Justice in Indiana on the effective date of this Amendment  
11 terminates on the earlier of the following:

12 (1) The schedule established by the State Judiciary Board.

13 (2) One year after this Amendment is ratified by the electors  
14 of the State.

15 Each Judge and Justice in Indiana becomes an employee of the  
16 State Judiciary Board thirty days after this Amendment is ratified  
17 by the electors of the State.

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